

Assembly Bill No. 1727

Passed the Assembly March 26, 2012

Chief Clerk of the Assembly

Passed the Senate June 25, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 5240 of the Family Code, relating to support orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1727, Silva. Support orders: termination.

Existing law governs court orders for spousal support in proceedings for dissolution of marriage or legal separation of the parties. Existing law also establishes statewide uniform guidelines for calculating court-ordered child support. A court ordering spousal or child support is required to include in its order an earnings assignment order for support, ordering the obligor's employer to pay a specified portion of the obligor's earnings to the obligee. Under existing law, upon the filing and service of a motion and a notice of motion by the obligor, the court is required to terminate an earnings assignment order for spousal support if any past due support has been paid in full and if certain conditions exist.

This bill would authorize an obligor to request ex parte relief in lieu of the filing and service requirements described above, except in specified circumstances.

The people of the State of California do enact as follows:

SECTION 1. Section 5240 of the Family Code is amended to read:

5240. (a) Upon the filing and service of a motion and a notice of motion by the obligor, the court shall terminate the service of an assignment order if past due support has been paid in full, including any interest due, and if any of the following conditions exist:

(1) With regard to orders for spousal support, the death or remarriage of the spouse to whom support is owed.

(2) With regard to orders for child support, the death or emancipation of the child for whom support is owed.

(3) The court determines that there is good cause, as defined in Section 5260, to terminate the assignment order. This subdivision

does not apply if there has been more than one application for an assignment order.

(4) The obligor meets the conditions of an alternative arrangement specified in paragraph (2) of subdivision (b) of Section 5260, and a wage assignment has not been previously terminated and subsequently initiated.

(5) There is no longer a current order for support.

(6) The termination of the stay of an assignment order under Section 5261 was improper, but only if that termination was based upon the obligor's failure to make timely support payments as described in subdivision (b) of Section 5261.

(7) The employer or agency designated to provide services under Title IV-D of the Social Security Act or the State Disbursement Unit is unable to deliver payment for a period of six months due to the failure of the obligee to notify that employer or agency or the State Disbursement Unit of a change in the obligee's address.

(b) In lieu of filing and serving a motion and a notice of motion pursuant to subdivision (a), an obligor may request ex parte relief, except ex parte relief shall not be available in the circumstances described in paragraphs (3) and (4) of subdivision (a).

Approved _____, 2012

Governor